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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN RE APPLICATIONS OF:

MM DOCKET NO. 93-75

TRINITY BROADCASTING OF FLORIDA, INC.
and
GLENDAL E BROADCASTING COMPANY
Miami, Florida

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1 Before the
2 FEDERAL COMMUNICATIONS COMMISSION
3 Washington, D.C. 20554
4 -----)
5 In The Matter Of:)
6 TRINITY BROADCASTING OF FLORIDA, INC.)
7 and) MM DOCKET NO. 93-75
8 GLENDALE BROADCASTING COMPANY)
9 Miami, Florida)
10 -----)
11 The above-entitled matter came on for hearing pursuant to
12 Notice before Judge Joseph Chachkin, Administrative Law Judge,
13 at 2000 L Street, N.W., Washington, D.C., in Courtroom 3, on
14 Wednesday, May 4, 1994, at 9:05 a.m.
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1	<u>I N D E X</u>				
2	<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
3	Lee Sandifer				
	By Mr. Bechtel	5562			
4	By Mr. Holt		5562		
	By Mr. Schonman		5586		
5	George F. Gardner				
6	By Mr. Bechtel	5605		5640	
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7	By Mr. Schonman		5638		
8	Lewis I. Cohen				
	By Mr. Bechtel	5647			
9	By Mr. Holt		5647		
	By Mr. Schonman		5690		
10					
11					
12	<u>E X H I B I T S</u>				
13	<u>TBF</u>	<u>Identified</u>	<u>Received</u>	<u>Rejected</u>	
14	Exhibit No. 271		5564		
15	Exhibit No. 272		5566		
16	Exhibit No. 273		5570		
17	Exhibit No. 275		5604		
18	Exhibit No. 293	5618	5640		
19	Exhibit No. 294	5677			
20					
21					
22					
23					
24	Hearing Began: 9:05 a.m.		Hearing Ended: 2:22 p.m.		
25	Lunch Break Began: 11:40 a.m.		Lunch Break Ended: 1:03 p.m.		

P R O C E E D I N G S

1
2 JUDGE CHACHKIN: Mr. Bechtel, yesterday there was a
3 reference to Obelmeyer. Do you remember the citation?

4 MR. BECHTEL: I'm not sure I have that in the room,
5 sir.

6 JUDGE CHACHKIN: All right. Because I found a
7 citation to the Board's action in December, 1973, whereby
8 question existed, question concerned the propriety of Judge
9 Chachkin's decision concerning whether or not the showing an
10 expense justified a misrepresentation of --. Was there a
11 subsequent case where there was actually dealt with a great
12 deal of expenses?

13 MR. BECHTEL: I have a penciled notation of a 34RR
14 2nd 1317.

15 JUDGE CHACHKIN: 34RR 2nd, what is it? What is it,
16 1317?

17 MR. BECHTEL: 1317, footnote 15, and then at review
18 denied 47RR 2nd 1335.

19 JUDGE CHACHKIN: 47RR, what was that, 1335?

20 MR. BECHTEL: Yes.

21 JUDGE CHACHKIN: 47RR 2nd 1335.

22 MR. BECHTEL: I'm going to have to double check this
23 because I also have an 11RR 2nd which doesn't relate to
24 anything.

25 JUDGE CHACHKIN: Well, the case I have is 29RR 2nd

1 | so it would have to be after that. Maybe the 34RR 2nd --

2 | MR. BECHTEL: Okay. Over the noon hour I'll get you
3 | that.

4 | JUDGE CHACHKIN: All right, I appreciate that. All
5 | right then, Mr. Bechtel, lets proceed.

6 | MR. BECHTEL: Sir, we have a preliminary matter on
7 | the schedule of witnesses. Today we have in town and ready to
8 | go Mr. Sandifer, George Gardner and Mr. Cohen. The remaining
9 | witness is David Gardner who is a single parent with some
10 | duties with his son today. He will be here tomorrow, so the
11 | point is that if, should we get through the other three, we'd
12 | like to break down and bring him up front.

13 | JUDGE CHACHKIN: And he'll be here at 9:00 a.m.
14 | tomorrow?

15 | MR. BECHTEL: He'll be here at 9:00 a.m. tomorrow,
16 | yes.

17 | JUDGE CHACHKIN: All right. Anyone have any
18 | objections to that?

19 | MR. HOLT: We accept counsel's representation and
20 | have no objection.

21 | JUDGE CHACHKIN: All right, fine.

22 | MR. BECHTEL: Thank you. And thanks to counsel,
23 | too, for the courtesy. I have called to the witness stand Mr.
24 | Sandifer.

25 | Whereupon,

1 LEE SANDIFER

2 having first been duly sworn, was called as a witness herein
3 and was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BECHTEL:

6 Q For the record, sir, would you state your name and
7 business address?

8 A Lee H. Sandifer, P.O. Box 38, Carlisle, Pennsylvania
9 17013.

10 Q Directing your attention to the Glendale Exhibit
11 228, do you have that in front of you?

12 A Yes, sir.

13 Q And are you the Lee Sandifer referred to therein?

14 A I am.

15 MR. BECHTEL: The witness is available for cross
16 examination.

17 JUDGE CHACHKIN: Mr. Holt, go ahead.

18 MR. HOLT: Yes, Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. HOLT:

21 Q Good morning, Mr. Sandifer. I'd like to begin by
22 directing your attention to a document that's been marked for
23 identification as TBF Exhibit 271. It's in a volume of
24 exhibits that were identified yesterday, and it's a letter
25 dated October 3, 1991 to you from Dennis Grolman. Do you have

1 that document before you?

2 A Yes, sir.

3 Q And that's a letter that you received from Mr.
4 Grolman on or about October 3, 1991, correct?

5 A Yes.

6 Q During, during the period prior to your receipt of
7 this letter, you and Mr. Grolman had discussed a price range
8 for the sale of the Red Lion construction permit. Is that
9 right?

10 A Yes, it is.

11 Q And that price range was 10 to 25 thousand dollars,
12 wasn't it?

13 A Yes.

14 Q It's true, is it not, that the price range you
15 discussed with Mr. Grolman was intended to give him a floor
16 and a ceiling number for the sale of the Red Lion permit, yes
17 or no?

18 A Yes.

19 Q You were deposed in this proceeding, were you not?

20 A Yes, I was.

21 Q And during that deposition you referred to the price
22 range that you discussed with Mr. Grolman as a swag number,
23 didn't you?

24 A Yes, I did.

25 Q And you explained that the term swag means

1 | sophisticated wild ass guess. Isn't that right?

2 | A Yes, I did.

3 | Q And the reason why the price range was considered to
4 | be a swag number is because at the time it was discussed with
5 | Mr. Grolman, you had no idea what real estate costs were with
6 | regard to the Red Lion construction permit. Isn't that true?

7 | A Yes.

8 | Q Around the time you received Mr. Grolman's October 3
9 | letter, you advised George Gardner of Mr. Grolman's interest
10 | in the Red Lion construction permit, did you not?

11 | A I advised him on a number of occasions. I did
12 | advise him after, I mean in this period of time, as well.

13 | Q And you, he instructed you to pursue the sale of the
14 | permit to Mr. Grolman as an option, didn't he?

15 | A Yes.

16 | MR. HOLT: At this time, Your Honor, I would move
17 | TBF Exhibit 271 for identification into evidence as TBF
18 | Exhibit 271.

19 | JUDGE CHACHKIN: Two seventy one, 271. Do you have
20 | any objection to TBF Exhibit 271?

21 | MR. BECHTEL: I have no objection.

22 | JUDGE CHACHKIN: TBF Exhibit 271 is received.

23 | (Whereupon, the document referred to
24 | as TBF Exhibit No. 271 was hereby
25 | received into evidence.)

1 BY MR. HOLT:

2 Q Mr. Sandifer, now I would like to direct your
3 attention to a document that's been re-marked for
4 identification as TBF Exhibit 272. It's a letter dated
5 10/10/91 from Dennis Grolman to you. Do you have that
6 document before you?

7 A Yes, sir.

8 Q Now, that is also a letter that you received from
9 Mr. Grolman on or about October 10, 1991, correct?

10 A Yes.

11 Q And this letter makes reference to a telephone
12 conversation that you had with Mr. Grolman that day. Did,
13 doesn't it?

14 A Yes.

15 Q It's a fact, is it not, that during that telephone
16 conversation with Mr. Grolman you agreed on behalf of Raystay
17 to sell the Red Lion construction permit to Mr. Grolman for
18 the sum of \$10,000?

19 A Yes.

20 Q But, but at the time you agreed on that price you
21 had no knowledge or understanding of what expenses Raystay
22 incurred with respect to the permit. Isn't that so?

23 A Yes.

24 Q During the period around the time of this letter,
25 you discussed the \$10,000 sales price with Mr. Gard-- with

1 George Gardner. Did you not?

2 A Did you say about this time?

3 Q During the period around the time of this letter.

4 A Yes.

5 Q And you advised him that you and Mr. Grolman had
6 negotiated a price of \$10,000. Isn't that so?

7 A Yes.

8 Q And George Gardner consented to the sale of the
9 construction permit at that price. Isn't that right?

10 A He told me to proceed with the negotiations.

11 Q He consented to the sale of the construction permit
12 at that price, didn't he?

13 A He consented to the possibility of the sale of the,
14 of, of the permit at that price.

15 MR. HOLT: At this time, Your Honor, I would move
16 that TBF Exhibit 272 for identification be received into
17 evidence as TBF Exhibit 272.

18 JUDGE CHACHKIN: Any objection?

19 MR. BECHTEL: None, sir.

20 JUDGE CHACHKIN: TBF Exhibit 272 is received.

21 (Whereupon, the document referred to
22 as TBF Exhibit No. 272 was hereby
23 received into evidence.)

24 BY MR. HOLT:

25 Q I'd like to next direct your attention to a document

1 that's been marked for identification as TBF Exhibit 273.
2 It's a note dated October 17, 1991. Do you have that document
3 before you, sir?

4 A Yes, sir.

5 Q If you look at the top right hand corner, there's a
6 notation, and it looks to be a C-O-R-R-E-S and then it's cut
7 off. I think in other copies that I could make available,
8 you'd see the writing LPTV with the notation costs. Do you
9 recognize that writing as yours?

10 A Yes.

11 Q And that signifies that it was sent to the Low
12 Powered Television Station files maintained by Raystay,
13 correct?

14 A Yes.

15 Q Now, this note was prepared by David Gardner in
16 response to your request that he gather information regarding
17 Raystay's expenses with respect to the 5 local power
18 construction permits, correct?

19 A Yes.

20 Q And those were the construction permits that were
21 held by Raystay at, at that time, two for --, two for
22 Lancaster and one for Red Lion, true?

23 A Yes.

24 Q Around the time of this note, it was Raystay's
25 practice, was it not, to maintain copies of invoices that had

1 | been received by vendors?

2 | A Yes.

3 | Q And by the term, vendors, I mean individuals or
4 | organizations that provided services or sold products to
5 | Raystay.

6 | A Yes.

7 | Q These invoices were maintained by Raystay in
8 | alphabetical order by vendor and by Raystay operating
9 | division, were they not?

10 | A Yes.

11 | Q And, Raystay's practice of maintaining those
12 | invoice, invoices like that continued through the time that
13 | the Red Lion assignment application was granted by the FCC in
14 | March of 1992, isn't that so?

15 | A Yes.

16 | Q Did Raystay have an accounting department during the
17 | period prior to March of 1992?

18 | A Yes.

19 | Q And was it possible during that period to obtain
20 | information from Raystay's accounting department as to what
21 | expenses Raystay had incurred with respect to expenditures
22 | that it had made, correct?

23 | A Yes.

24 | Q And documents showing expenditures on a vendor by
25 | vendor basis were accessible by requesting them, correct, from

1 the accounting department?

2 A Yes.

3 MR. HOLT: At this time, Your Honor, I'd like to
4 move that TBF Exhibit 273 for identification be received into
5 evidence as TBF Exhibit 273.

6 JUDGE CHACHKIN: Any objection?

7 MR. BECHTEL: Let me remark, sir, that another copy
8 which shows the cents figures over on the end may be found --

9 MR. HOLT: I think it's page 6 of his direct
10 testimony of yesterday.

11 MR. BECHTEL: Page 6 of Mr. Sandifer's direct
12 testimony. Thank you. And we have no objection to the
13 receipt into evidence of this document which is slightly
14 different.

15 JUDGE CHACHKIN: There being no objection, I'm
16 prepared to receive the document. However, in terms of
17 accuracy, the -- obviously page 6 of Glendale Exhibit 228
18 contains the cents, which seems to be cut off of the TBF
19 Exhibit.

20 MR. HOLT: Yes, Your Honor, they were photocopying
21 it. I'm sorry. I'm sorry, Your Honor.

22 JUDGE CHACHKIN: So, Telsa, for instance, should be
23 \$1,092.01 and under the Forcona Berfield is should read
24 \$5,222.03 and the filing fee is \$1,875.

25 MR. HOLT: Thank you, Your Honor.

1 JUDGE CHACHKIN: All right. The exhibit is
2 received. TBF Exhibit 273 is received.

3 (Whereupon, the document referred to
4 as TBF Exhibit No. 273 was hereby
5 received into evidence.)

6 BY MR. HOLT:

7 Q Mr. Sandifer, I'd next like to direct your attention
8 to a document that's been marked for identification as TBF
9 Exhibit 275. It's a letter dated December 12, 1991 on the
10 letterhead of Arent, Fox, directed to Dennis Grolman by David
11 Tillotson with a cc to David Gardner. Do you have that letter
12 before you?

13 A Yes, I do.

14 Q Now, the second paragraph of that letter, after the
15 entries one and two, refers to a modification to the Red Lion
16 sales contract that had been requested by someone at Raystay.
17 Is that, isn't that right?

18 A Excuse me, which paragraph are we in?

19 Q The paragraph that begins after the entries one and
20 two.

21 A Oh, okay.

22 Q Beginning with the words the revised agreement.

23 A And your question was?

24 Q It refers to a modification to the Red Lion
25 construction, sales contract that had been requested by

1 someone at Raystay, correct?

2 A Yes.

3 Q And I take it that this is the contract revision
4 that's referenced in paragraph 3 of your direct testimony?

5 A Yes.

6 Q If you turn to the next page of the document that's
7 been marked for identification as TBF Exhibit 275. I'm sorry,
8 turn to page 3 of TBF 275 for identification. The
9 modification that you discussed in your testimony is reflected
10 in a shaded portion of the contract in Section 1, shown on
11 that page, is it not?

12 A That is one of the modifications that is made here,
13 but, I assume that's the one that you're referring to.

14 Q And that contract modification provided Raystay with
15 the right to terminate the sale of the construction permit if
16 the FCC didn't authorize Mr. Grolman to pay it the full
17 \$10,000 sales price that it agreed to, correct?

18 A I'll just need to read it for a second, please.
19 Did, could you restate the question, please.

20 Q The provision that is reflected in, or the
21 modification, excuse me, that's reflected in Section 1, on
22 page 3, provided Raystay with the right to terminate the sale
23 of the construction permit to Mr. Grolman in the event that
24 the FCC didn't grant his permission for Mr. Grolman to pay
25 Raystay the full \$10,000 sales price that it agreed to,

1 correct?

2 A It gives us that option, yes.

3 Q Do you have any knowledge or understanding as to who
4 at Raystay requested the change that we're reviewing?

5 A I personally did not request the change.

6 Q Do you have any knowledge or understanding as to who
7 at Raystay did?

8 A Yes.

9 Q And who was that person?

10 A David Gardner.

11 Q Can you tell me why the change was requested?

12 A No.

13 Q Do you have any knowledge or understanding as to
14 whether Mr. Gardner discussed the proposed change with anyone
15 at Cohen & Berfield before it was proposed to Mr. Grolman or
16 his attorney?

17 A I have no such knowledge.

18 Q Did you or to your knowledge anyone at Raystay
19 discuss this modification with anyone at Cohen & Berfield at
20 any time before the Red Lion assignment application was
21 granted?

22 A I personally did not.

23 Q To your knowledge, did anyone else at Raystay?

24 A Not to my knowledge.

25 Q Did you discuss this modification with anyone at

1 Raystay at any time before the time that the Red Lion
2 assignment application was granted?

3 A I discussed, I mean I reviewed the agreements that
4 had to do with the assignment application and this was
5 attached, or a variation of this agreement was attached
6 therewith.

7 Q Did you discuss the modification with anyone at
8 Raystay at any time before the assignment application was
9 filed with the Commission?

10 A Not particularly this issue, no.

11 Q Do you have any knowledge or awareness that the
12 agreement had been modified to provide Raystay with the right
13 to terminate the contract if it wasn't granted the full
14 \$10,000 sale price?

15 A As I believe I already stated, I reviewed this
16 agreement, or a form thereof, which in, in it's final form at
17 the time that I reviewed the assignment application, so I
18 guess I was aware of it through that review.

19 Q You were aware that the contract that you reviewed
20 prior to signing the application was different from an earlier
21 version of the contract?

22 A I was aware that some changes had been made in the
23 process of the finalization of the agreement.

24 Q Were you aware of this change?

25 A I was aware upon reading it at the time that I

1 signed the application.

2 Q Did you discuss this change with anyone at Raystay?

3 A No, I did not discuss this particular change.

4 Q At any time before the Red Lion assignment
5 application was granted, did you, or to your knowledge anyone
6 else at Raystay, discuss with anyone at Cohen and Berfield,
7 the question of whether or not the FCC was likely to approve
8 the \$10,000 sales price specified in the contract?

9 A If you could repeat that. That was a pretty big
10 question.

11 Q Sure. At any time before the assignment
12 application, the Red Lion assignment application was granted,
13 now I'll tell you that that occurred on March 2nd of 1992.
14 Did you, or to your knowledge anyone else at Raystay, discuss
15 with anyone at Cohen and Berfield, the question of whether or
16 not the FCC was likely to approve the \$10,000 sales price?

17 A I'm aware that all the documents that had to do with
18 the consignment application were provided to Cohen and
19 Berfield prior to the granting, I mean prior to the filing of
20 the application.

21 Q Do you have any knowledge as to whether there -- did
22 you or anyone else at Raystay discuss with anyone at Cohen and
23 Berfield the question of whether or not the FCC was likely to
24 approve the \$10,000 sale price?

25 A At the time, having had knowledge of previous

1 conversations with Cohen and Berfield regarding cost, recovery
2 at the time of transfer of a LPTV construction permit and
3 knowing that, excuse me, having inquired of David Gardner
4 whether he reviewed the certification of expenses with, with
5 our FCC counsel, Cohen and Berfield, indicated that he had
6 done so.

7 Q You discussed with someone at Cohen and Berfield the
8 question of whether or not the FCC was likely to grant the
9 sale of the construction permit for a price of \$10,000?

10 A I can't predict what the FCC is going to do, but to
11 our knowledge we certified the costs and I asked him whether
12 those costs could be supportable and he indicated that he
13 discussed, reviewed the matter with Cohen and Berfield and
14 that they, the -- and that the matter was supportable before
15 the FCC.

16 Q At any time before the Red Lion assignment
17 application was granted, did you, or to your knowledge anyone
18 else at Raystay discuss with anyone at Cohen and Berfield the
19 question of whether or not the FCC might request additional
20 information about the expense certification?

21 A Well, I've had such conversations with Mort Berfield
22 sometime in the fall of 1991, that the FCC is, is -- ask for
23 additional support.

24 Q Mr. Berfield advised you that the FCC could ask for
25 additional documentation to back up the figures specified in

1 the Red Lion expense certification?

2 A Not necessarily the Red Lion one but in any expense
3 certification.

4 Q What sort of information did Mr. Berfield tell you
5 the FCC might request in the event they wanted additional
6 information?

7 A Well, I think our conversations had to do with
8 documented out of pocket costs, so I, I think the issue was
9 whether all of the costs could, were supportable by invoices.
10 Or some other method of expense recording.

11 Q At any time before the Red Lion assignment
12 application was granted, did you or to your knowledge anyone
13 else at Raystay discuss with anyone at Cohen and Berfield the
14 question of whether or not the FCC, the FCC should be informed
15 that an allocation had been made to arrive at the figure
16 specified at the Red Lion expense certification?

17 A I don't recall discussing with Cohen and Berfield
18 myself whether we, whether the FCC should be notified about
19 allocations of expenses.

20 Q To your knowledge, excuse me. To your knowledge,
21 was that a subject that was discussed by anybody else at
22 Raystay with anyone at Cohen and Berfield?

23 A Not to my knowledge was that particular item ever
24 discussed.

25 Q Did you discuss that subject with anyone at Raystay

1 at any time before the Red Lion assignment application was
2 filed?

3 A At the time that I review the application, the
4 assignment application, I asked David Gardner if, if he had
5 reviewed the certification of expenses with our FCC counsel
6 and whether they were supportable to the FCC. He responded in
7 the affirmative.

8 Q Did you discuss with David Gardner the fact that an
9 allocation had been made to arrive at the, the expenses
10 specified in the expense certification?

11 A If you could, repeat the question, please.

12 Q During that conversation or at any other time, did
13 you discuss with David Gardner the fact that an allocation had
14 been made to arrive at the expenses specified in the expense
15 certification?

16 A We discussed possible allocations of expenses prior
17 to the preparation of this application. We, you know, whether
18 we -- so I was, he and I were both aware that allocations
19 would be, could be made and could be made in our preparation.

20 Q What possible allocations did you discuss with David
21 Gardner?

22 A I think, primarily the discussion was such that
23 while there were five construction permits there were only
24 three locations so the engineering would have been done for
25 Lancaster or Lebanon and would have, would have not, would

1 have caused Red Lion to have one-third or some other
2 percentage of the engineering related expenses.

3 Q Did you discuss allocating at any time, let me
4 rephrase. Did you discuss at any time with David Gardner the
5 question of allocating the expenses by one-fifth as opposed to
6 one-third?

7 A As in regards -- in my clarification is, is that in
8 regard to the Red Lion construction permit certification of
9 expenses?

10 Q Now, lets, let me back you up and say during the
11 process when you were in discussions, yes, let, I'll, I'll ask
12 you that question with respect to the Red Lion expense
13 certification.

14 A David Gardner and I, more than one time in the fall
15 of 1991, discussed the possible allocation of expenses and
16 various types of allocations that might be made to allocate
17 expenses between the LPTV construction permits as it might be
18 involved in a transfer of the construction permits.

19 Q To your knowledge, were those types, any of those
20 types of allocations discussed with Mort Berfield by Mr.
21 Gardner at any time?

22 A I personally had a conversation with Mr. Berfield
23 regarding that and I had conversations with David Gardner
24 regarding that. I don't know whether David Gardner had a
25 specific conversations with Mort Berfield regarding that.

1 JUDGE CHACHKIN: Well, you said allocations and
2 before you specifically referred to engineering and the fact
3 that there were three sites. Are we talking about any other
4 costs beside the engineering costs that you discussed? For
5 instance, did you discuss allocation of legal costs,
6 specifically?

7 WITNESS: Yes, sir.

8 JUDGE CHACHKIN: With whom?

9 WITNESS: I had those conversations with Mort
10 Berfield and I had those conversations with David Gardner in
11 the fall of 1991.

12 JUDGE CHACHKIN: What was the subject, what was the
13 nature of those discussions?

14 WITNESS: The nature of those discussions, sir, were
15 that, since the preparation of the applications for the CPs
16 and other documents that, legal work that, that had to, to do
17 with that, were essentially preparing one document -- cookie
18 cutter preparation of the others that there was a possibility
19 of allocating greater expenses to, a greater legal expenses to
20 the preparation of those documents.

21 JUDGE CHACHKIN: All right, just to be clear about
22 this, when you say discussions, is this you giving an opinion
23 and Mr. Berfield giving an opinion or this is what Mr.
24 Berfield told you as your counsel? I mean, was this give and
25 take or was this Mr. Berfield's legal opinion that we're

1 talking about here when, when you say discussions?

2 MR. SANDIFER: I think at the time that I had my
3 discussions with Mr. Berfield it was conceptual give and take
4 as well as his representation that such expenses could be
5 allocated.

6 JUDGE CHACHKIN: All right. Go ahead, Mr. Holt.

7 BY MR. HOLT:

8 Q During this conceptual give and take, what other
9 options did you discuss, what options did you discuss with
10 respect to how the legal fees could be allocated?

11 MR. BECHTEL: I'm going to object to that question.
12 It assumes that we discussed other options.

13 JUDGE CHACHKIN: Sustained.

14 BY MR. HOLT:

15 Q What, if any, options did you discuss, other options
16 did you discuss with Mr. Berfield during your conceptual give
17 and take?

18 MR. BECHTEL: I'm going to object again. I think
19 the question is confusing.

20 JUDGE CHACHKIN: There's been no, there's been no
21 antecedent testimony that would suggest that there were
22 options discussed.

23 MR. BECHTEL: It's misleading --

24 JUDGE CHACHKIN: -- your conceptual discussions that
25 your discussions as you framed it, has a conceptual give and

1 take. What --

2 WITNESS: In conversations with Mr. Grolman, he had
3 made it clear to me that only certain supportable expenses
4 could be recovered upon the transfer of an LPTV construction
5 permit. After that conversation, I talked to Mr. Berfield and
6 asked him to outline for me what type of, of expenses could be
7 recovered. During that process of him outlining to me what
8 sort of expenses could be recovered, we discussed the fact
9 that certain costs might be allocated one-fifth to each of the
10 LPTV construction permits, and certain costs might be
11 allocated one-third to the number of sites and that certain
12 other costs, particularly legal, could be allocated on some
13 other reasonable basis.

14 BY MR. HOLT:

15 Q Do you recall what basis, if any, you discussed with
16 Mr. Berfield, with respect to how legal fees could be
17 allocated?

18 A I think as I already answered, that there's a
19 possibility, we discussed the possibility of associating,
20 associating a greater percentage of the costs to some of the
21 initial work that was done on the, on the applications since
22 all five applications were generally identical except for some
23 basic information. So, we talked about a possibility of
24 allocating a greater percentage of costs to any one particular
25 location on that basis.